

AMENDED IN SENATE AUGUST 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1399

Introduced by Committee on Jobs, Economic Development, and the Economy (Medina (Chair), Campos, Daly, Fong, Fox, Hueso, Linder, Mansoor, Melendez, and —V. Manuel Pérez V. Manuel Pérez)

March 11, 2013

An act to amend and renumber Sections 13997.2 and 13997.7 of, and to add the heading of Article 6 (commencing with Section 12100) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, the Government Code, *and to amend Section 44559.1 of the Health and Safety Code*, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Committee on Jobs, Economic Development, and the Economy. Economic development.

Existing law defines specified terms relating to economic development and authorizes the Business, Transportation and Housing Agency, and its secretary, to expend specified funds.

This bill would renumber these provisions ~~and~~, instead authorize the Governor's Office of Business and Economic ~~Development, Development~~ and its ~~director, director~~ to expend these funds. *This bill would authorize the Executive Director of the California Infrastructure and Economic Development Bank to expend these funds, but only if AB 1247, relating to the Small Business Assistance Act of 2013, is enacted and takes effect on or before January 1, 2014. This bill would also make conforming changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Article 6 (commencing with
2 Section 12100) is added to Chapter 1.6 of Part 2 of Division 3 of
3 Title 2 of the Government Code, to read:

4
5 Article 6. Local Economic Development
6

7 SEC. 2. Section 13997.2 of the Government Code is amended
8 and renumbered to read:

9 12100. (a) The Legislature finds and declares all of the
10 following:

11 (1) California's economic development organizations and
12 corporations are an integral component of the state job creation
13 effort because they are a critical link between state economic
14 development activities and the statewide business community,
15 providing an excellent opportunity to leverage state resources.

16 (2) Economic development corporations and organizations
17 provide broad public benefits to the residents of this state by
18 alleviating unemployment, encouraging private investment, and
19 diversifying local economies.

20 (3) Economic development corporations engage in a wide range
21 of programs and strategies to attract, retain, and expand businesses,
22 including marketing the community, small business lending, and
23 other financial services, a wide range of technical assistance to
24 small business, preparation of economic data, and business
25 advocacy.

26 (4) By using public sector resources and powers to reduce the
27 risks and costs that could prohibit investment, the public sector
28 often sets the stage for employment-generating investment by the
29 private sector.

30 (b) For purposes of this chapter, all of the following definitions
31 apply:

32 (1) "Local economic development organization" means a public
33 or public-private job creation activity recognized by cities and
34 counties as the lead agency within that city or county for planning

1 and implementation of job creation involving business expansion,
2 business retention, and new business development.

3 (2) “Regional economic development organization” means an
4 organization comprised of any of the following:

5 (A) A single county.

6 (B) More than one county.

7 (C) A subregion within a county established by the cities and
8 county within that subregion.

9 (D) An economic development corporation.

10 (3) “Economic development corporation” means a local or
11 regional nonprofit public-private economic development
12 organization recognized in a defined region by the public and
13 private sector as the lead agency for the planning and
14 implementation of job creation involving business retention and
15 new business development.

16 (4) “Regional economic development corporation” means a
17 corporation comprised of any of the following:

18 (A) A single county.

19 (B) More than one county.

20 (C) A subregion within a single county established by a group
21 of cities and counties.

22 (5) “Economic development” means any activity that enhances
23 the factors of productive capacity, such as land, labor, capital, and
24 technology, of a national, state, or local economy. “Economic
25 development” includes policies and programs expressly directed
26 at improving the business climate in business finance, marketing,
27 neighborhood development, small business development, business
28 retention and expansion, technology transfer, and real estate
29 redevelopment. “Economic development” is an investment program
30 designed to leverage private sector capital in such a way as to
31 induce actions that have a positive effect on the level of business
32 activity, employment, income distribution, and fiscal solvency of
33 the community.

34 (6) “Local economic development” is a process of deliberate
35 intervention in the normal economic process of a particular locality
36 to stimulate economic growth of the locality by making it more
37 attractive, resulting in more jobs, wealth, better quality of life, and
38 fiscal solvency. Prime examples of economic development include
39 business attraction, business expansion and retention, and business
40 creation.

(7) “Emerging domestic market” means people, places, or business enterprises with growth potential that face capital constraints due to systemic undervaluations as a result of imperfect market information. These markets include, but are not limited to, ethnic-owned and women-owned firms, urban and rural communities, companies that serve low-income or moderate-income populations, and other small- and medium-sized businesses.

(8) “Financial intermediary” means an institution, firm, organization, or individual who performs intermediation between two or more parties in a financial context, such as connecting sources of funds with users of funds. A financial intermediary is typically an entity that facilitates the channeling of funds between lenders, investors, foundations, or other entities that have money and are interested in connecting with businesses or communities where their money can be deployed. Financial intermediaries include, but are not limited to, banks, financial development corporations, economic developers, microbusiness lenders, and community development organizations.

(9) “Community development intermediary” means an institution, firm, organization, or individual that performs intermediation between two or more parties in a community development context, such as connecting people and organizations that have a stake in the future well-being of communities and individuals who may not easily have access to these stakeholders. A community development intermediary is typically an entity that channels financial and nonfinancial resources between government and foundations and other nonprofit organizations that have resources and are interested in connecting with small- and medium-size businesses and low- and moderate-income households and communities. Community development intermediaries include, but are not limited to, community development corporations, microbusiness lenders, and community development financial institutions.

(10) “Triple bottom line” means the economic, environmental, and social benefits arising from a project, investment, or community and economic development activity.

(11) “Small businesses” means a business with less than 100 employees and with a gross revenue of less than five million dollars (\$5,000,000), or a business that is otherwise targeted by or

1 participating in a federal or state program engaged in programs or
2 services for small businesses. Application of this definition may
3 only be used pursuant to a direct reference.

4 (12) “Community development” means a process designed to
5 create conditions of economic and social prosperity for the whole
6 community, or a targeted subset of the whole community, with the
7 fullest possible reliance on the community’s initiative and active
8 participation.

9 (13) “Financial institution capital” means resources of a financial
10 institution, including, but not limited to, a bank or credit union,
11 that are legally available to be used to generate wealth for the
12 financial institution.

13 (14) “California Council on Science and Technology” means
14 the council established by California academic research institutions,
15 including the University of California, the University of Southern
16 California, the California Institute of Technology, Stanford
17 University, and the California State University, in support of
18 Assembly Concurrent Resolution No. 162 (Res. Ch. 148, Stats.
19 1988).

20 (15) “Microbusiness lender” means a nonprofit or nonbank
21 lender that serves very small businesses in low- and
22 moderate-income communities that experience barriers in accessing
23 capital. These businesses are often owned by minorities,
24 immigrants, women, and persons with disabilities. Microbusiness
25 lenders generally provide loans under fifty thousand dollars
26 (\$50,000) and offer business technical assistance, both preloan
27 and postloan, to improve an applicant’s ability to qualify and
28 successfully repay a loan.

29 SEC. 3. Section 13997.7 of the Government Code is amended
30 and renumbered to read:

31 12098.7. (a) Notwithstanding any other law, effective January
32 1, 2008, the Economic Adjustment Assistance Grant funded
33 through the United States Economic Development Administration
34 under Title IX of the Public Works and Economic Development
35 Act of 1965 (Grant No. 07–19–02709 and 07–19–2709.1) shall be
36 administered by the director, and, for the purpose of state
37 administration of this grant, the director shall be deemed to be the
38 successor to the former *Secretary of Business, Transportation and*
39 *Housing and the former Secretary of Technology, Trade and*
40 *Commerce*. The director may assign and contract administration

1 of the grant to a public agency created pursuant to Chapter 5
2 (commencing with Section 6500) of Division 7 of Title 1.

3 (b) On January 1, 2008, all federal moneys held in the Sudden
4 and Severe Economic Dislocation Grant Account within the Special
5 Deposit Fund are hereby transferred to the Small Business
6 Expansion Fund created pursuant to Section 14030 of the
7 Corporations Code for expenditure by the office pursuant to Article
8 9 (commencing with Section 14070) of the Corporations Code for
9 purposes of the Sudden and Severe Economic Dislocation Grant
10 program, or other purposes permitted by the cognizant federal
11 agency.

12 (c) All loan repayments received on or after January 1, 2008,
13 for the Sudden and Severe Economic Dislocation Grant program
14 loans issued pursuant to former Section 15327 (repealed by Section
15 1.8 of Chapter 229 of the Statutes of 2003 (AB 1757)) and this
16 section, shall be deposited into the Small Business Expansion Fund
17 and shall be available to the office for expenditure pursuant to the
18 provisions of Article 9 (commencing with Section 14070) of the
19 Corporations Code for the Sudden and Severe Economic
20 Dislocation Grant program, or other purposes permitted by the
21 cognizant federal agency.

22 *SEC. 4. Section 13997.7 of the Government Code is amended*
23 *and renumbered to read:*

24 ~~13997.7.~~

25 63089.92. (a) Notwithstanding any other ~~provision of~~ law,
26 effective January 1, 2008, the Economic Adjustment Assistance
27 Grant funded through the United States Economic Development
28 Administration under Title IX of the Public Works and Economic
29 Development Act of 1965 (Grant No. 07-19-02709 and
30 07-19-2709.1) shall be administered by the ~~Secretary of Business,~~
31 ~~Transportation and Housing,~~ *Executive Director of the California*
32 *Infrastructure and Economic Development Bank* and, for the
33 purpose of state administration of this grant, the ~~secretary executive~~
34 *director* shall be deemed to be the successor to the former *Secretary*
35 *of Business, Transportation and Housing and the former Secretary*
36 *of Technology, Trade and Commerce.* The ~~secretary executive~~
37 *director* may assign and contract administration of the grant to a
38 public agency created pursuant to Chapter 5 (commencing with
39 Section 6500) of Division 7 of Title 1.

(b) On January 1, 2008, all federal moneys held in the Sudden and Severe Economic Dislocation Grant Account within the Special Deposit Fund are hereby transferred to the Small Business Expansion Fund created pursuant to Section 14030 of the Corporations Code for expenditure by the ~~Business, Transportation and Housing Agency~~ *California Infrastructure and Economic Development Bank* pursuant to Article 9 (commencing with Section 14070) of the Corporations Code for purposes of the Sudden and Severe Economic Dislocation Grant program, or other purposes permitted by the cognizant federal agency.

(c) All loan repayments received on or after January 1, 2008, for the Sudden and Severe Economic Dislocation Grant program loans issued pursuant to former Section 15327 (repealed by Section 1.8 of Chapter 229 of the Statutes of 2003 (AB 1757)) and this section, shall be deposited into the Small Business Expansion Fund and shall be available to the ~~Business, Transportation and Housing Agency~~ *California Infrastructure and Economic Development Bank* for expenditure pursuant to the provisions of Article 9 (commencing with Section 14070) of the Corporations Code for the Sudden and Severe Economic Dislocation Grant program, or other purposes permitted by the cognizant federal agency.

SEC. 5. *Section 44559.1 of the Health and Safety Code is amended to read:*

44559.1. As used in this article, unless the context requires otherwise, all of the following terms have the following meanings:

(a) “Authority” means the California Pollution Control Financing Authority.

(b) “California Capital Access Fund” means a fund created within the authority to be used for purposes of the program.

(c) “Executive director” means the Executive Director of the California Pollution Control Financing Authority.

(d) (1) “Financial institution” means a federal- or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.

(2) (A) “Financial institution” also includes a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter I of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20) of Chapter I of Title 13 of the Code of Federal Regulations, and a small business financial development corporation, as defined in Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, or microbusiness lender, as defined in Section ~~13997.2~~ 12100 of the Government Code, that meets standards that shall be established by the authority. For loans where all or part of the fees and matching contributions are paid by an entity participating in the program pursuant to subdivision (e) of Section 44559.2, “financial institution” also includes financial lenders, as defined in Section 22009 of the Financial Code, making commercial loans, as defined in Section 22502 of the Financial Code.

(B) A financial institution described in this paragraph shall be domiciled or have its principal office in the State of California.

(3) “Financial institution” also includes an insured depository institution, insured credit union, or community development financial institution, as these terms are defined in Section 4702 of Title 12 of the United States Code.

(e) “Loss reserve account” means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purposes of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.

(2) Depositing contributions made by the state and, if applicable, the federal government or other sources.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) “Participating financial institution” means a financial institution that has been approved by the authority to enroll

1 qualified loans in the program and has agreed to all terms and
2 conditions set forth in this article and as may be required by any
3 applicable federal law providing matching funding.

4 (g) “Passive real estate ownership” means ownership of real
5 estate for the purpose of deriving income from speculation, trade,
6 or rental, but does not include any of the following:

7 (1) The ownership of that portion of real estate being used or
8 intended to be used for the operation of the business of the owner
9 of the real estate.

10 (2) The ownership of real estate for the purpose of construction
11 or renovation, until the completion of the construction or renovation
12 phase.

13 (h) “Program” means the Capital Access Loan Program created
14 pursuant to this article.

15 (i) “Qualified business” means a small business concern that
16 meets both of the following criteria, regardless of whether the
17 small business concern has operations that affect the environment:

18 (1) It is a corporation, partnership, cooperative, or other entity,
19 whether that entity is a nonprofit entity or an entity established for
20 profit, that is authorized to conduct business in the state.

21 (2) It has its primary business location within the boundaries of
22 the state.

23 (j) (1) “Qualified loan” means a loan or a portion of a loan
24 made by a participating financial institution to a qualified business
25 for any business activity that has its primary economic effect in
26 California. A qualified loan may be made in the form of a line of
27 credit, in which case the participating financial institution shall
28 specify the amount of the line of credit to be covered under the
29 program, which may be equal to the maximum commitment under
30 the line of credit or an amount that is less than that maximum
31 commitment. A qualified loan made under the program may be
32 made with the interest rates, fees, and other terms and conditions
33 agreed upon by the participating financial institution and the
34 borrower.

35 (2) “Qualified loan” does not include any of the following:

36 (A) A loan for the construction or purchase of residential
37 housing.

38 (B) A loan to finance passive real estate ownership.

39 (C) A loan for the refinancing of an existing loan when and to
40 the extent that the outstanding balance is not increased.

1 (D) A loan, the proceeds of which will be used in any manner
2 that could cause the interest on any bonds previously issued by
3 the authority to become subject to federal income tax.

4 (k) “Severely affected community” means any area classified
5 as an enterprise zone pursuant to the Enterprise Zone Act (Chapter
6 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
7 the Government Code), any area, as designated by the executive
8 director, contiguous to the boundaries of a military base designated
9 for closure pursuant to Section 2687 of Title 10 of the United States
10 Code, as amended, and any other comparable economically
11 distressed geographic area so designated by the executive director
12 from time to time.

13 (l) “Small Business Assistance Fund” means a fund created
14 within the authority pursuant to Section 44548.

15 (m) “Small business concern” has the same meaning as in
16 Section 632 of Title 15 of the United States Code, or as otherwise
17 provided in regulations of the authority.

18 *SEC. 6. (a) Section 3 of this bill amends and renumbers Section*
19 *13997.7 of the Government Code. It shall become operative only*
20 *if Assembly Bill 1247, relating to the Small Business Financial*
21 *Assistance Act of 2013, is not enacted and does not take effect on*
22 *or before January 1, 2014, in which case Section 4 of this bill shall*
23 *not become operative.*

24 *(b) Section 4 of this bill amends and renumbers Section 13997.7*
25 *of the Government Code. It shall become operative only if Assembly*
26 *Bill 1247, relating to the Small Business Financial Assistance Act*
27 *of 2013, is enacted and takes effect on or before January 1, 2014,*
28 *in which case Section 3 of this bill shall not become operative.*